



Office of Language Access

2008 Annual Report to the Governor and the State Legislature

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EXECUTIVE SUMMARY

This report covers the activities and accomplishments of the Office of Language Access (OLA) for FY 07-08.

The OLA is in its second year of operations. It completed its strategic planning during the year and undertook activities and projects designed to achieve its identified goals. In its continued efforts to promote public awareness of and outreach to the community on language access, the OLA participated in various community events and the first Hawai'i Statewide Conference on Language Access on March 28-29, 2008; continued to publish its quarterly electronic newsletter; broadcasted radio spots on LEP rights in 14 languages; produced a new flyer on LEP rights and the complaint process in eight languages; and celebrated (through legislative resolution and gubernatorial proclamation) Language Access Month in September 2008; the latter which included ethnic newspaper coverage, a forum on language access and civil rights, radio spots, pay stub messages and a language access community fair.

How is the state doing in providing language access? The OLA is proud to report that it was able to get all 25 state agencies to submit their language access plans by the statutory deadlines. In addition, 53 covered entities voluntarily submitted their language access plans to the office. In order to assist state agencies as they work to provide language access, the OLA provided: technical assistance and training to state and state-funded agencies by meeting bimonthly with state language access coordinators, training on a data reporting tool, help to identify possible public contact positions for multilingual staff, assistance in assessment of documents requiring written translation, language access webinars, and various presentations. The OLA also started its monitoring process of state agencies receiving federal funds.

In terms of language access services development, the OLA has undertaken a feasibility study to determine the need for language access, the cost involved in providing language services, and the possibility of establishing a centralized language access resource center. The study is being done in response to a request from the state legislature. The results of the study will be available by the end of December 2008. In addition, the OLA has co-sponsored training workshops for Micronesian interpreters as well as statewide workshops for court interpreters as part of the Court Certification process. Discussions have likewise started on the holding of training sessions and webinars on working with interpreters and with volunteer multilingual staff.

To ensure the timely resolution of complaints, the OLA translated the complaints form that it developed last year into eight languages. Since the last report, the OLA received several calls and visits during the year, however, most were inquiries or requests for interpreters or translators. Other calls were informal complaints about housing and MedQuest issues. The only formal complaint received concerned an eviction case in public housing where the eviction notice was in English, and not in a language that could be understood by the individual.

The OLA supported legislative measures that were passed during the Regular Session of 2008. Act 8 amended the language access law by clarifying certain definitions and expanding the membership of the Language Access Advisory Council from 11 to 16 members. In addition, a Senate Concurrent Resolution (SCR 67 SD1) was passed declaring September 2008 as Language Access Month and requesting the OLA to conduct a feasibility study on the establishment of a statewide language access resource center.

Issues and challenges that continue to face the OLA include the lack of qualified interpreters and translators, public awareness and outreach, compliance, and limited resources. To address these issues, the OLA is recommending a more aggressive community outreach program, including a mass media campaign and language access month activities; training of agency staff, including bilinguals; resource collaboration with other public and private agencies, and grant seeking.

INTRODUCTION

The Office of Language Access (OLA) is in its second year of operations. The office is an administratively attached agency within the Department of Labor and Industrial Relations.

Under the Language Access law, the Legislature envisioned providing equal access to Hawai'i's government and sought to affirmatively address the language access needs of limited English proficient (LEP) persons by requiring State agencies and covered entities (i.e. organizations receiving state funds to provide services to the public) to provide language services to LEP persons. Specifically, the law contemplates that, under certain circumstances, equal access to state services, programs and activities will be provided through oral and written language services to LEP persons to ensure "meaningful access" to state services or state-funded programs.

A. Report Requirement

The law requires the OLA to submit an annual report to the Governor and the Legislature twenty days prior to the opening of the legislative session. The report shall detail "compliance, complaints and resolutions, recommendations to enhance compliance, and statutory or administrative changes to further the purposes" of the language access law.

B. Organization of the Report

This report covers the activities and accomplishments of the OLA for the period December 2007 to November 2008.

I. HAWAI'I'S LEP DEMOGRAPHIC PROFILE

According to the U.S. Census Bureau's 2006 American Community Survey, Public Use Microdata Area (PUMS) Data, out of Hawai'i's total population of 1,285,498, 22.3% or 287,098 people speak a language other than English at home. Of those who speak a language other than English at home, 45.5% or 130,761, are LEP individuals (speak English less than "very well"). Among the LEP population, 85.9% are Asians, and 7.7% are Native Hawaiians and Pacific Islanders. The top languages for Hawai'i's LEP population are: Tagalog, Ilokano, Japanese, Chinese (Mandarin and Cantonese), Korean, Vietnamese, Visayan (Cebuano), Samoan and Spanish. Micronesian languages such as Marshallese and Chuukese are in great demand, although their current populations are relatively small.

Most of the LEP population are foreign-born (82.7%), female (59.4%), and married (58.1%); 34.5% are age 60 years and above, 69.3% have incomes less than \$25,000 per year, and 66.8% did not go beyond high school.

II. THE OFFICE OF LANGUAGE ACCESS

A. Purpose and Function

The OLA is mandated to provide oversight, central coordination, and technical assistance to state agencies and covered entities in their implementation of language access requirements and in the provision of language services under the law, HRS §§ 371-31 to -37.

B. Staffing and Budget

The office has six positions: the Executive Director, a Senior Legal Analyst, two Research Analysts, a Legal Clerk, and a Clerk Typist. For FY 2008-2009, the OLA budget was \$440,000 (\$291,764 in personal services and \$148,236 in other current expenses).

III. THE LANGUAGE ACCESS ADVISORY COUNCIL

A. Membership

As a result of the passage of Act 8 during the Regular Session of 2008, the membership of the Language Access Advisory Council increased from eleven to sixteen members. The five new members are: a representative from the Disability and Communications Access Board (Kristine Pagano); a representative from each of the counties: Hāwai'i (Lito Asuncion); City & County of Honolulu (Betty Brow); Kauai (Azi Turturici); and Maui (Mary Santa Maria). Jennifer Li replaced Lito Asuncion as the Council's Case Manager.

B. Function

The Council serves in an advisory capacity to the OLA's Executive Director by providing input on implementation and compliance; the quality of oral and written language services provided; the adequacy of a state agency's or covered entity's dissemination and training of its employees likely to have contact with LEP persons; policies and procedures for language services; competency in working effectively with in-person and telephone interpreters; and understanding the dynamics of interpretation between clients, providers, and interpreters.

IV. GOALS AND OBJECTIVES

In November 2007, the OLA initiated a Five Year Strategic Planning process which was completed in July 2008. As a result, the office established the vision of "Language Access for All." Toward that end, the OLA's mission is to promote equal access to and full participation in, government services, programs and activities for LEP persons by providing oversight, coordination and assistance to state and state-funded agencies. The OLA's set of values includes Leadership, Collaboration, Respect, and Justice and Equality. In seeking to fulfill its mission, the OLA has established the following goals and strategies:

Goal 1 To promote public awareness and ensure that the LEP population is informed of and educated about their rights.

Strategies:

1. Establish and nurture working relationships with partners to develop awareness about language access.
2. Establish and hold a Language Access Month celebration in September of each year.
3. Conduct outreach to LEP communities.
4. Develop multilingual materials and website.
5. Undertake mass media campaigns.

Goal 2 To ensure that all state agencies and covered entities are in compliance with the requirements of the language access law.

Strategies:

1. Develop guidelines and provide training and technical assistance to state agencies and covered entities.
2. Establish a data collection and reporting system for state agencies.
3. Conduct a monitoring process and implement a compliance rating system for state agencies.

Goal 3 To assist in the development of an adequate pool of trained and competent language service providers.

Strategies:

1. Conduct a language access needs, resource, and cost analysis in the State of Hawai'i.
2. Develop a directory of language service providers in the State of Hawai'i.
3. Facilitate training programs for language service providers.
4. Develop statewide standards for interpretation and translation.

Goal 4 To develop OLA staff's expertise and resources.

Strategies:

1. Seek alternative sources of additional funding through federal grants and monies to further the OLA's mission.
2. Provide staff training and development.

3. Develop a resource library.
4. Interface and network with language access practitioners nationwide.

Goal 5 To ensure the timely resolution of complaints about language access.

- Strategies:**
1. Develop tools, processes and procedures for handling complaints.
 2. Provide education and training to agencies on the complaints process.
 3. Conduct outreach to LEP communities on the complaints process.
 4. Develop responsive methods of resolving conflicts.

Goal 6 To provide statewide leadership in the area of language access.

- Strategies:**
1. Provide models and educate agencies about best practices.
 2. Serve as a clearinghouse for information and resources on language access.
 3. Cultivate, maintain and strengthen alliances, partnerships and collaborations.
 4. Propose and support needed legislation.
 5. Provide leadership in technological solutions to language access problems.

The OLA's work on achieving these goals is discussed below in section V, *Accomplishments*.

V. ACCOMPLISHMENTS

A. Public Awareness, Education and Outreach

Being a relatively new office, the OLA is aware of the need for visibility and community education on language access. It continues to participate in community events and maintain and update its website (www.hawaii.gov/labor/ola) to provide information about language access and the office's activities to the public:

- *Community Events.* The OLA staff participated in community events and fairs, e.g. the Filipino Fiesta in May 2008 and the "I Love Liliha" Fair in August 2008. Staff interacted with the public and distributed the OLA's informational materials during these events. On December 4, 2008, the OLA staff participated in the Island Insights live discussion on language access issues on television station PBS.
- *Language Access Conference.* On March 28-29, 2008, the OLA hosted the first Hawai'i Statewide Conference on Language Access at the East-West Center in Honolulu. Organized into three tracks – one for administrators, one for language service users, and one for bilinguals/interpreters – the conference's main objective was to promote and increase public awareness about language access. More than 200 individuals from all over Hawai'i attended. Speakers included language access experts from Hawai'i, Alaska, California, New York, Oregon and Washington D.C., with the keynote address given by the Honorable Grace Chung Becker, Acting Assistant Attorney General of the Civil Rights Division, U.S. Department of Justice.
- *Language Access Month.* The OLA sought and successfully obtained support for a legislative resolution during the Regular Session of 2008, which declared September as Language Access Month in Hawai'i. Consequently, a series of activities were held during September 2008:
 - Ethnic newspaper coverage – The Fil-Am Courier wrote a three-page article about language access in Hawai'i;
 - Forum on Language Access and Civil Rights – The forum was held at the University of Hawai'i (UH) and was jointly sponsored by the OLA, the UH William S. Richardson School of Law, and the UH Spark Matsunaga Institute of Peace and Conflict Resolution;
 - Proclamation by Governor Linda Lingle;

- Language Access Community Fair at the State Capitol Rotunda, jointly sponsored by the OLA, the State Civil Defense Division of the Department of Defense, and the Interagency Council on Immigrant Services;
 - A message about language access was printed on the pay stubs of all state and county employees; and
 - Radio spots - A month-long radio campaign on LEP rights was broadcasted in 16 languages over radio stations KNDI, KREA and KZOO.
- *Newsletter.* The office continues to publish and distribute its electronic quarterly newsletter (The OLA Quarterly), which will be on its fifth issue by the end of this year.
 - *Radio and print.* The OLA had radio spots covering LEP rights in 14 languages over radio station KNDI for an entire month in January 2008 and in 16 languages in September 2008. The office also produced a new flyer on LEP rights and the complaint process and has translated it into eight languages. Currently, the flyer is on the OLA website in three Filipino languages: Cebuano, Ilokano and Tagalog.

B. Compliance

1. Submission and Review of Language Access Plans

In our 2007 report, we noted that 21 state agencies had submitted approved plans. Since then, all 25 state agencies have submitted their initial language access plans by the statutory deadlines of July 1, 2007 (for the 17 agencies receiving federal funds) and July 1, 2008 (for all other agencies). As part of the monitoring and review process mandated under the law, all plans are reviewed to ensure compliance and followed up on to track implementation.

The 17 state agencies receiving federal funds who submitted plans in July 2007 are required by law to review and resubmit their plans before July 2009. The OLA is working with them to assess and make appropriate modifications to their plans, as necessary.

Covered entities continue to voluntarily submit their plans to the OLA. In 2007, we reported that 20 covered entities submitted their plans. Since then, an additional 33 have submitted their plans, for a total of 53 covered entities with Language Access Plans.

2. Technical Assistance and Training

The OLA continued to provide technical assistance and training to state and state-funded agencies to assist them in implementing their language access plans, including the following:

- *Bimonthly meetings* with state language access coordinators to discuss plan implementation problems and issues.
- *Training on the Data Reporting Tool.* In August 2008, staff conducted a series of workshops explaining the purpose of the tool and how to use it to track data on their LEP clients, the languages they serve, the frequency of LEP contact, etc.
- *Bilingual Hiring Requirement.* In an effort to get the state to assess its needs to meet this requirement, the OLA developed a survey of public contact positions for state agencies to complete. The OLA expects to receive feedback on the surveys early next year.
- *Written Translation of Vital Documents.* To assist state agencies in assessing their needs to provide translations, the OLA developed a survey requesting agencies to identify and list their vital documents and the languages in which those documents are or will be available. The OLA will continue its efforts to assess the results of this survey and actively assist agencies in this area.

- *Documents & Webinars.* The office also provided state agencies with copies of language access documents and materials from other states and invited speakers to talk about topics such as translation, data collection, and training for interpreters/translators during the language access coordinators' meetings. The OLA likewise invited agencies to participate in several webinars on language access conducted by the Migration Policy Institute (October 16, 2008), and by the U.S. Census and the Federal Interagency LEP Workgroup (October 30, 2008 and November 6, 13 and 20, 2008).

- *Presentations & Miscellaneous.* The OLA staff made a number of presentations about the language access law and OLA at various agencies such as the Department of Public Safety, the Department of Land and Natural Resources, Kapiolani Community College, and the Committee on Overcoming Barriers to Access to Justice of the Hawai'i Access to Justice Commission. They have also had discussions with the Speaker of the State House of Representatives about future funding support for language access, the Legal Aid Society of Hawai'i about collaboration in dealing with complaints, and the Department of Transportation Services of the City & County of Honolulu on how it is addressing language access needs of the riding public. The OLA also worked with the Governor's office on the volunteer-based translation of her 2007 State-of-the-State Address into six languages.

3. Monitoring

As a precursor to the official monitoring visits, the OLA conducted pre-monitoring visits of state agencies on Oahu. The purpose of the visits was twofold: (1) to determine if they have complied with the minimum requirement of displaying signs, such as the multilingual poster provided by the OLA, or notices that would inform LEP individuals of the availability of language services and allow LEP individuals to identify themselves as needing interpretation or translation services; and (2) to determine if they had translated documents displayed at their offices, particularly those with a high volume of public contact, and if they were available to the public.

The results of these unannounced visits indicated that most of the state agencies have not posted multilingual posters in their offices and are still working on having translated documents displayed at their offices. Where agencies did not have signs displayed, the OLA staff provided them with posters. The visits also gave staff an opportunity to discuss the language access law with state workers and provide outreach and education.

C. Language Access Services Development

- Feasibility Study

As a result of the concurrent resolution passed during the Regular Session of 2008 (*see below*, part F. of this section), the OLA contracted with Dr. Federico Magdalena of the University of Hawai'i to conduct a feasibility study to determine (1) the need for language services; (2) the cost involved in providing language services; and (3) the possibility of establishing a centralized language access resource center.

As of November 15, 2008, a total of 60 out of 216 agencies (or 29%) completed and returned the questionnaire. The results of the study will be available by the end of December 2008.

- Training of Interpreters

Given the lack of qualified interpreters in the state, the OLA co-sponsored with the Office of Equality and Access to the Courts (OEAC), two pre-orientation training workshops for Micronesian interpreters (Chuukese and Marshallese) on January 11 and 16, 2008 in Honolulu. In addition, it also co-sponsored with the OEAC in February and March 2008, several training sessions statewide for court interpreters as part of the Court Certification process. Four training workshops were held on Oahu, one on Kauai and Maui, and two on the Big Island (Hilo and Kona). A total of 158 individuals participated in these workshops.

In addition, a major focus of the First Hawai'i Conference on Language Access (*see part A.* of this section) was on interpreters and translators. Panel discussions and presentations covered topics such as *Basic Interpreting Skills*; *Becoming Business-Minded*; *Becoming a Court Interpreter*; *Becoming a Medical/Social Service Interpreter*;

Becoming a Translator; The Need for Cultural Competency; The Role of an Interpreter; and The Road to Professionalization.

Currently, the OLA is in negotiations to conduct training sessions and webinars statewide in early 2009 on how to work with interpreters and with volunteer multilingual staff.

D. Staff Development

In line with the OLA's strategic plan and belief in developing its resources, capacity and expertise, staff attended or gave presentations at several conferences in Hawai'i and on the mainland, including the Filipino as a Global Language Conference on March 17-19, 2008 at the University of Hawai'i; the First Hawai'i Conference on Language Access in Honolulu; and the 2008 Federal Interagency Conference on LEP in Washington D.C. The OLA staff also had an opportunity to meet with, learn from and share ideas with their language access colleagues at the Annie E. Casey Language Access Convening in Baltimore, Maryland; the Micronesian Voices Conference on April 3-4, 2008 in Honolulu; and webinars on Language Access sponsored by the Migration Policy Institute and on LEP Demographic Data sponsored by the U.S. Census and Department of Justice. Finally, on November 12, 2008, staff and Council members learned about the laws that apply to state entities regarding the Americans with Disabilities Act at training presented by the Disability and Communications Access Board.

In addition, the OLA staff visited the following language access offices in New York and Washington D.C. to learn first hand about how or what other jurisdictions on the mainland are doing regarding language access: Office of Human Rights, D.C. Language Access Program; Asian Pacific American Legal Resource Center/Language Access Coalition, Washington D.C.; Migration Policy Institute, Washington D.C.; New York City Office of Emergency Management, Cross Cultural Outreach Program; New York City's Department of Education Translation and Interpretation Unit; New York City Human Resources Administration/Office of Refugee and Immigrant Affairs; New York City Mayor's Office of Immigrant Affairs and Office of Operations; and Vera Institute of Justice in New York City.

E. Complaints Resolution

- Complaints Process

As reported last year, the OLA developed a complaints process, which by law is an informal process involving a basic form to be used by complainants. Since then, the OLA has translated the form into eight languages: Cebuano, Chinese, Ilokano, Japanese, Korean, Spanish, Tagalog and Vietnamese. The Cebuano, English, Ilokano and Tagalog versions are available on the OLA's website, <http://hawaii.gov/labor/ola>

During this reporting year, the OLA received 745 calls and visits from LEP individuals and agencies. Approximately 13% of them were inquiries or requests for interpreters or translators and about 86% were requests for information. The rest, except for one formal complaint, were informal complaints from LEP individuals. Most of these informal complaints dealt with Hawaii Public Housing Authority issues, e.g. non-translated eviction notice, request to bring own interpreter, and with MedQuest issues where the LEP individual was told to call the OLA for an interpreter instead of the state agency providing the interpreter. Those calling with informal complaints were reluctant to file a formal written complaint as they simply wanted their language access need to be addressed. The only formal complaint that was made pertained to a housing eviction case where the eviction notice was not translated or an interpreter provided to orally translate the notice.

Type of Complaint	Number	%
Formal complaint	1	0.13%
Informal complaint	5	0.67%
Inquiry/Request for information	643	86.31%
Request for interpreter/translator	96	12.89%
TOTAL	745	100%

F. Legislative Initiatives

The OLA successfully submitted legislative measures during the Regular Session of 2008.

- Act 8

Act 8 was signed into law by Governor Linda Lingle in May 2008. The Act amended the language access law by clarifying certain definitions (HRS § 371-32) and expanding the membership of the Language Access Advisory Council from eleven to sixteen members (HRS § 371-37). The additional members include a representative from each of the counties (Honolulu, Kauai, Maui and Big Island) and a representative from the Disability and Communications Access Board.

- SCR 67 SD1

This Senate Concurrent Resolution was passed to declare September 2008 as Language Access Month and requesting the OLA to conduct a feasibility study on the establishment of a statewide centralized language access resource center.

VI. ISSUES AND CHALLENGES

A. Public Awareness and Outreach

Based on informal discussions as well as preliminary results of monitoring visits, there continues to be a need to inform and educate state agencies and the public about the language access law and the importance of language access in Hawai'i. Also, based on discussions with community members and evidenced by the minimal numbers of complaints that the OLA receives, it would appear that many members of the community, particularly those who are limited English proficient, are either not aware of their rights or are reluctant to file complaints in cases where they are not provided language services. Consequently, there is a need for more outreach and education to the community.

B. Compliance

The preliminary results of the pre-monitoring visits indicate that there remains much opportunity for state agencies to meet the basic requirement to provide notice of the right to language access service, especially by posting multilingual posters. Based on the results of the Vital Documents Survey, many agencies have not identified their vital documents and translated them. While the four-factor "reasonableness" test was meant to give agencies flexibility in providing language services, it was not meant to be a barrier to providing such services based on resource and cost alone.

C. Resources

The passage of the language access law has created a demand for language services, but there remains a shortage of available and competent language service providers statewide. In addition, the lack of funding continues to be a problem for state agencies. Finally, the language service delivery system in Hawai'i continues to be very limited, fragmented and uncoordinated.

VII. RECOMMENDATIONS

To address these issues, OLA is proposing the following:

1. Undertake a community outreach program that will enable the OLA to have face-to-face meetings with community organizations and groups to talk about the law and their rights in their own language.
2. Hold language access month activities on an annual basis, including an annual language access conference, for the purpose of public education.

3. Conduct statewide training on working with interpreters and for volunteer multilingual staff for state agencies.
4. Issuance of an executive memorandum to all departments, reiterating the need to comply with the requirements of the language access law, and properly planning for resources to address their language service needs.
5. Pursue the recommendations from the feasibility study on the establishment of a centralized language access resource center.

CONCLUSION

The provision of language access remains a major challenge for Hawaii's multilingual society. The OLA will continue to work with state agencies and covered entities in the spirit of collaboration and through innovative ways in the pursuance of its vision of having language access for all in Hawaii.